

A Path Forward



**VIRGINIA DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT**



Partners for Better Communities

THE ENVIRONMENTAL REVIEW RECORD PROCESS:

AT WARP SPEED

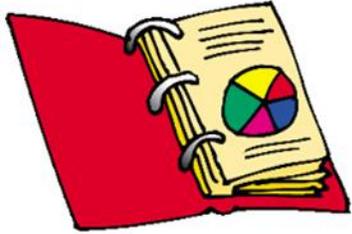


| 2022 Grant Management Virtual Training | |
|--|---|
| January 19-21 | Grant Management Workshop |
| February 8-10 | Rehab Workshop |
| February 23-24 | Environmental Review Records |
| March 16 | Section 3 |
| April 12 | Fair Housing |
| May 4, 11, 25 | Federal Labor Standards |
| June 8 | Pre-Contract Activities |
| June 22 | Cloudy Title/Heir Properties |
| July 13 | Planning Grant |
| July 27 | Land Banking Options for Virginia Communities |
| August 10 | Financial Management, Reporting and Tracking |
| September 14 | Uniform Relocation Act |



What is an Environmental Review (ER)?

- An ***environmental review*** is the process used to determine if an action created from the expenditure of federal funds will adversely affect the environment.
- ***Environmental reviews*** are **legally required for any project receiving federal funds** by the **National Environmental Act (NEPA) of 1969 and Related Acts**
 - Federally funded grants include ***all*** CDBG and ARC projects



What is the Environmental Review Record (ERR)?

- The ***environmental review record (ERR)*** is the documentation created by completing the ***environmental review process***.
- The **ERR**:
 - Provides a way for public citizens and officials to review environmental impacts **BEFORE** any action is undertaken
 - Helps tell the story of the project
 - Leaves a “paper trail” showing due diligence for any potential future problems
 - A well-documented and maintained ERR is of upmost important because ***IF IT'S NOT IN WRITING IT DIDN'T HAPPEN***

- The **ERR** must contain:
 - **Project Description** – be detailed, but no graduate thesis length
 - **Statutory Checklist**
 - **Environmental Checklist**
 - **Maps**
 - **Public Notices**
 - **Documentation of determinations or findings** as evidence of review, decision making, and action
 - **All correspondence between regulatory agencies and localities/grantees (IE DHR, DGIF, DEQ, Native American tribal governments)**
- The **ERR** must :
 - Be available for public review – Town Hall, Municipal Building, County Administration Building
 - Be accessible for public review



Steps of Completing an Environmental Review

Define Project & Scope

Determine “Level of Review”

Conduct Review

Publish Notices and Submit RROF & Certification
(if required)

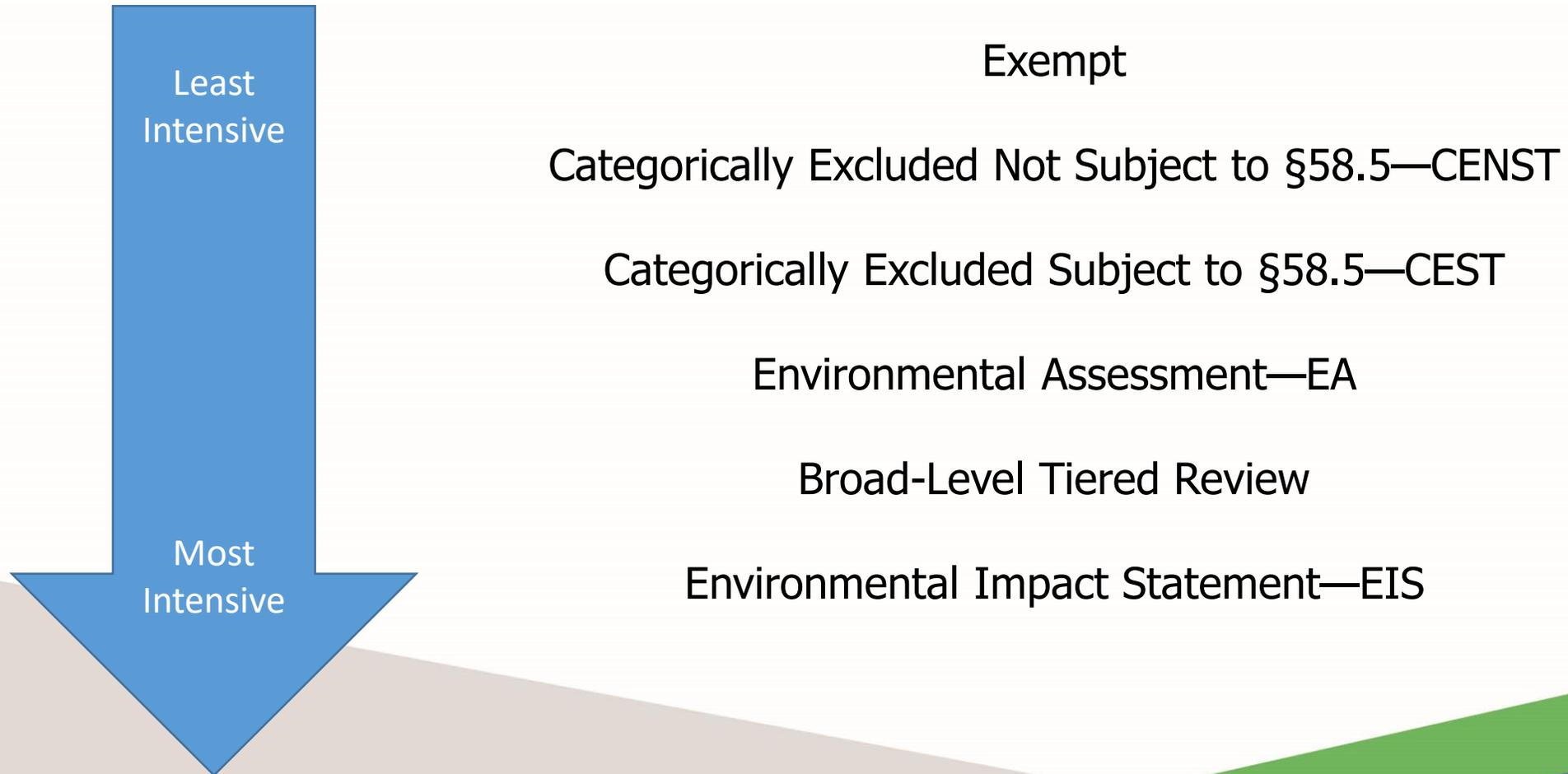
Define Project and Scope – Step 1

The Project Description **must include:**

- Project Name
- Type of Construction
- Specific Location
- Types of Activities
- Time frame



Determining Level of Review – Step 2 of the ER Process



Conduct Review – Step 3

- Start with the statutory checklist (next slides)
 - For **Exempt/Categorically Excluded Not Subject To (CENST)** projects, you will use Appendix 2.Ba located in the 2017 Grant Management Manual
 - For **Categorically Excluded To (CEST)** project, you will use Appendix 2. Bb located in the 2017 Grant Management Manual
 - You will use Appendix 2.A for all other types of projects

Statutory Checklist

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities and Written Strategies

| Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6 | Was compliance achieved at the broad level of review? | If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review. |
|---|---|---|
| STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6 | | |
| Airport Hazards | Yes No | |
| 24 CFR Part 51 Subpart D | <input type="checkbox"/> <input type="checkbox"/> | |
| Coastal Barrier Resources | Yes No | |
| Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501] | <input type="checkbox"/> <input type="checkbox"/> | |
| Flood Insurance | Yes No | |
| Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a] | <input type="checkbox"/> <input type="checkbox"/> | |
| STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 58.5 | | |
| Clean Air | Yes No | |
| Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93 | <input type="checkbox"/> <input type="checkbox"/> | |
| Coastal Zone Management | Yes No | |
| Coastal Zone Management Act, sections 307(c) & (d) | <input type="checkbox"/> <input type="checkbox"/> | |
| Contamination and Toxic Substances | Yes No | |
| 24 CFR Part 50.3(i) & 58.5(i)(2) | <input type="checkbox"/> <input type="checkbox"/> | |
| Endangered Species | Yes No | |
| Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402 | <input type="checkbox"/> <input type="checkbox"/> | |
| Explosive and Flammable Hazards | Yes No | |
| 24 CFR Part 51 Subpart C | <input type="checkbox"/> <input type="checkbox"/> | |
| Farmlands Protection | Yes No | |
| Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658 | <input type="checkbox"/> <input type="checkbox"/> | |
| Floodplain Management | Yes No | |
| Executive Order 11988, particularly section 2(a); 24 CFR Part 55 | <input type="checkbox"/> <input type="checkbox"/> | |
| Historic Preservation | Yes No | |
| National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800 | <input type="checkbox"/> <input type="checkbox"/> | |
| Noise Abatement and Control | Yes No | |
| | <input type="checkbox"/> <input type="checkbox"/> | |

| | | |
|--|---|--|
| Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B | Yes No | |
| Sole Source Aquifers | <input type="checkbox"/> <input type="checkbox"/> | |
| Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149 | <input type="checkbox"/> <input type="checkbox"/> | |
| Wetlands Protection | Yes No | |
| Executive Order 11990, particularly sections 2 and 5 | <input type="checkbox"/> <input type="checkbox"/> | |
| Wild and Scenic Rivers | Yes No | |
| Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c) | <input type="checkbox"/> <input type="checkbox"/> | |
| ENVIRONMENTAL JUSTICE | | |
| Environmental Justice | Yes No | |
| Executive Order 12898 | <input type="checkbox"/> <input type="checkbox"/> | |

Attach supporting documentation as necessary, including a site-specific checklist.

Determination:

- Extraordinary circumstances exist and this project may result in significant environmental impact. This project requires preparation of an Environmental Assessment (EA), OR
- There are no extraordinary circumstances which would require completion of an EA, and this project may remain CEST.

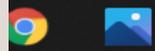
Preparer Signature: _____ Date: _____

Name/Title/Organization: _____

Responsible Entity Agency Official Signature: _____

_____ Date: _____

Name/Title: _____



Statutory Checklist – Bad Example

| Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6 | Are formal compliance steps or mitigation required? | Compliance determinations |
|--|---|---------------------------|
| STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 and 58.6 | | |
| Airport Hazards 24 CFR Part 51 Subpart D | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501] | Yes <input type="checkbox"/> No <input type="checkbox"/> | |

Statutory Checklist – Good Example

| Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6 | Are formal compliance steps or mitigation required? | Compliance determinations |
|--|---|--|
| STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 and 58.6 | | |
| Airport Hazards 24 CFR Part 51 Subpart D | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | This project is not in near an airport. See Appendix 5 for map determination showing this. |
| Coastal Barrier Resources | Yes <input type="checkbox"/> No <input type="checkbox"/> | |

Conduct Review – Step 3 cont.

Research and Consultation

- Write letters and/or emails to regulatory agencies—as necessary
- Question: How long do we have to wait for a response?



Determine Level of Impact – Step 3 cont.

For Environmental Assessment

GENERAL LEVEL OF DETERMINATION

1. Not A Major Federal Action
 - Finding of No Significant Impact (FONSI)
2. **Major Federal Action** may significantly affect the quality of the human environment (FOSI)
 - **EIS required**



Publish/Post Public Notices and RROF-C – Step 4

- **Publish** and/or **Post** FONSI/NOI-RROF (combined notice)
- Allow **15 or 18 days** for comment period
- Address/resolve any comments received
- Sign RROF/C and submit to DHCD and other required agencies
- Allow 15 days for the State objection period

**Calculation of Time Periods for Public Comment:
Combined Notice for projects NOT in Floodplain/Wetlands**
Table applies when submitting RROF & C via email
Please insert your actual dates in the calendar below

| | | | | | | |
|---|--|----------------------|---|------------------------------|--|--|
| <ul style="list-style-type: none"> • Contact resource agencies via email (Allow at least 30 days for comments from resource agencies before completing the ERR) • Complete ERR after receiving all resource agency comments. DHR approval must be documented through one of the following: letter of clearance; executed programmatic agreement, or; executed Memorandum of Agreement | | | | | | |
| | Publish or post Combined Notice of FONSI & NOI-RROF (Appendix 2.F) | Start Comment Period | | | | |
| | | | | | | |
| | | End Comment Period* | Prepare RROF & Certification & email a PDF to DHCD (Appendix 2.G) | Begin State Objection Period | | |
| | | | | | | |
| | | | | End State Objection Period* | | |

*If comment period ends on a Saturday or Sunday, the dates must use the following Monday as the last

FOR EXEMPT/CENST PROJECTS – NO PUBLICATION IS NEEDED

KEY POINT - DESIGNATION OF ERR SIGNATORY

If the Chief Elected Official (Chair of Board of Supervisors for County and Mayor for Town) of a locality does not sign the ERR, then a designation must be formally adopted in a Board/Council Meeting!



The completion of this document will be added to our Contract Negotiation Record (CNR) for all projects moving forward to be completed during the pre-contract phase!

A Boilerplate Template to be coming soon

Remember!

KEY POINT – START EARLY

An ERR can take months to complete. You should ideally be started before your application is completed.



START EARLY!

If your project is a historic resource, make sure to contact DHR at the beginning of your ERR. Contact them regularly throughout the process

<https://vcris.dhr.virginia.gov/VCRIS/Account/Login?ReturnUrl=%2fvcris%2f>

If your project is in a floodplain/wetland, make sure to conduct the 8-Step Decision Making Process (Appendix 2.H in the Manual) and related publications – THIS TAKES TIME!

Consult the TDAT website <https://egis.hud.gov/TDAT/> to see if any Native American tribes have a vested interest in the project and send correspondence on governmental letterhead!

Resources:

- The Grant Management Manual – Appendix 2 (ERR)
- The HUD Exchange Website - www.hudexchange.info
- Tribal Directory Assessment Tool (TDAT) — egis.hud.gov/tdat
- An EPA tool used to facilitate the environmental review process – nepassisttool.epa.gov
- VCRIS (Virginia Cultural Resource Information System) provides interactive views of information in the DHR's Archives- dhr.virginia.gov
- IPaC is a project planning tool which streamlines the USFWS environmental review process- ecos.fws.gov/
- Your CDS
- Me!

Contact Information:



Kelly Charapich

Kelly.Charapich@dhcd.Virginia.gov

(276) 274-4108

A Path Forward



Partners for Better Communities